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## **Tax Return Preparer Fraud**

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Return preparer fraud generally involves the preparation and filing of false income tax returns by preparers who claim inflated personal or business expenses, false deductions, unallowable credits or excessive exemptions on returns prepared for their clients. This includes inflated requests for the special one-time refund of the long-distance telephone tax. Preparers may also manipulate income figures to obtain tax credits, such as the Earned Income Tax Credit, fraudulently.

In some situations, the client (taxpayer) may not have knowledge of the false expenses, deductions, exemptions and/or credits shown on their tax returns. However, when the IRS detects the false return, the taxpayer — not the return preparer — must pay the additional taxes and interest and may be subject to penalties.

The IRS Return Preparer Program focuses on enhancing compliance in the return-preparer community by investigating and referring criminal activity by return preparers to the Department of Justice for prosecution and/or asserting appropriate civil penalties against unscrupulous return preparers.

While most preparers provide excellent service to their clients, the IRS urges taxpayers to be very careful when choosing a tax preparer. Taxpayers should be as careful as they would be in choosing a doctor or a lawyer. It is important to know that even if someone else prepares a tax return, the taxpayer is ultimately responsible for all the information on the tax return.

### **Helpful Hints When Choosing a Return Preparer**

- Be careful with tax preparers who claim they can obtain larger refunds than other preparers.
- Avoid preparers who base their fee on a percentage of the amount of the refund.
- Stay away from preparers who claim that many, if not most, phone customers can get hundreds of dollars or more back under the telephone tax refund program.
- Use a reputable tax professional who signs your tax return and provides you with a copy for your records.

- Consider whether the individual or firm will be around to answer questions about the preparation of your tax return months, or even years, after the return has been filed.
- Review your return before you sign it and ask questions on entries you don't understand.
- No matter who prepares your tax return, you (the taxpayer) are ultimately responsible for all of the information on your tax return. Therefore, never sign a blank tax form.
- Find out the person's credentials. Only attorneys, CPAs and enrolled agents can represent taxpayers before the IRS in all matters including audits, collection and appeals. Other return preparers may only represent taxpayers for audits of returns they actually prepared.
- Find out if the preparer is affiliated with a professional organization that provides its members with continuing education and resources and holds them to a code of ethics.
- Ask questions. Do you know anyone who has used the tax professional? Were they satisfied with the service they received?

Reputable preparers will ask to see your receipts and will ask you multiple questions to determine your qualifications for expenses, deductions and other items. By doing so, they are trying to help you avoid penalties, interest or additional taxes that could result from an IRS examination.

Further, tax evasion is a risky crime, a felony, punishable by five years imprisonment and a \$250,000 fine.

### **Criminal Investigation Statistical Information on Return Preparer Fraud**

	<b>FY 2006</b>	<b>FY 2005</b>	<b>FY 2004</b>
Investigations Initiated	197	248	206
Prosecution Recommendations	153	140	167
Indictments/Informations	135	119	121
Sentenced	109	118	90
Incarceration Rate*	89.0%	85.6%	84.4%
Avg. Months to Serve	18	18	19

\*Incarceration may include prison time, home confinement, electronic monitoring or a combination.

### **Criminal and Civil Legal Actions**

Some return preparers have been convicted of, or have pleaded guilty to, felony charges.

Additionally, the courts have issued 175 permanent injunctions against abusive tax scheme promoters and abusive return preparers since 2003. The following case summaries are excerpts from public record documents on file in the court records in the judicial district in which the legal actions were filed.

### **California Tax Preparers Sentenced to Prison Terms for Operating Tax Fraud Schemes**

On Oct. 6, 2006, in San Diego, Calif., Susan E. O'Brien, a professional tax preparer who operated "The O'Brien Group," was sentenced to ten years and five months in prison and ordered to pay \$113,179 in restitution. She was convicted on May 2, 2006, for tax evasion, defrauding the United States and aiding and assisting in the filing of fraudulent tax returns. Co-defendants Robert Richard Evans and William Dean Cook were also sentenced to prison terms of 78 and 24 months, respectively. In July 2003, O'Brien, Evans, Cook and five others were charged in a 78 count indictment with various tax crimes related to tax years 1996-2002. According to the indictment and trial evidence, O'Brien prepared numerous income tax returns that claimed false business deductions and Evans promoted, sold and managed domestic trusts used by clients to hide their income and assets from the IRS. O'Brien also was convicted of evading the payment of tax on her own income. The tax evasion scheme resulted in a tax loss to the United States of more than \$1 million.

### **Two Sentenced for Preparing False Tax Returns**

On Sept. 20, 2006, in Monroe, La., Eddie Ferrand and William Kennedy were sentenced for aiding and assisting in the preparation of false income tax returns and conspiracy. Ferrand was sentenced to 60 months in prison to be followed by three years supervised release. Ferrand was also ordered to pay \$255,890 in restitution to the IRS and a \$900 assessment. Kennedy was sentenced to 27 months in prison to be followed by three years supervised release. Kennedy was also ordered to pay \$39,020 in restitution to the IRS and an \$800 assessment. According to the indictment, Ferrand, as the owner and operator of Mr. Ed's Tax Service, hired, trained and supervised tax preparers employed at Mr. Ed's, including co-defendant Kennedy. Ferrand, Kennedy and other co-defendants prepared income tax returns and amended prior year returns by inflating Schedule A deductions and creating false Schedule C businesses in order to increase taxpayer's refund. The defendants prepared more than three thousand returns expanding over 26 states and generating refunds in excess of \$6 million.

### **Minnesota Tax Preparer Sentenced for Filing False Tax Returns**

On March 23, 2006, in Minneapolis, Minn., Richard Reiss was sentenced to 41 months in prison for aiding and assisting in the preparation of 84 false tax returns. Reiss was also ordered to pay a \$7,500 criminal fine and \$198,958 in back taxes. Reiss prepared tax returns for more than 30 clients and claimed fraudulent and false deductions such as unreimbursed employee business expenses, mileage expenses, meals and entertainment, charitable contributions, medical expenses and tax preparation fees, and business losses resulting from business expenses that were fabricated or inflated. In total, he overstated expenses and deductions for numerous clients by more than \$1 million, which resulted in tax losses of about \$198,000.

### **Tax Preparer Who Used Bogus Business Losses to Wipe Out Clients' Income Taxes Sentenced to 11 Years in Prison**

On Feb. 21, 2006, in Los Angeles, Calif., James Earl Wynn was sentenced to 11 years in federal prison following his April 22, 2005 conviction of 24 counts of aiding and advising in the preparation of false income tax returns. Evidence presented in court showed that Wynn solicited his clients by telling them that he operated a number of businesses in which they could invest. Wynn told his clients that if the businesses turned a loss, the clients could claim the loss on their tax return. As part of this arrangement, Wynn offered to prepare the clients' tax returns charging his clients a percentage of their tax refunds in addition to a return preparation fee. Wynn did not tell his clients that many of the businesses listed on their tax returns did not exist at all. None of the businesses listed on their tax returns as part of the tax fraud scheme ever existed as a partnership, ever filed a partnership tax return or ever sustained the losses claimed on the taxpayers' returns. Wynn caused more than 2,000 tax returns to be filed with the IRS claiming more than \$75 million in false partnership losses. The tax loss to the government exceeded \$10 million. On July 18, 2005, Linda M. Hall, who once worked for Wynn, was sentenced to 70 months imprisonment and was ordered to pay restitution of \$6,339,023.

### **Rockford Tax Preparer Sentenced to 56 Months in Federal Prison for Preparing False Tax Returns**

On Feb. 13, 2006 in Rockford, Ill., John H. Bell was sentenced to 56 months in prison, followed by one year supervised release, for preparing false federal income tax returns for others and for filing a false federal income tax return for himself. According to the indictment, Bell, the owner of Bell's Income Tax Service and of Real Estate Investors (REI) #2462, Inc., prepared false income tax returns for others. In order to support the returns, Bell attached W-2s to the returns that falsely stated the amounts of income the taxpayers received from REI and falsely stated the REI had withheld federal income tax from the taxpayers when, in fact, no such taxes had been withheld by Bell or his corporation. The indictment also charged that Bell filed an income tax return for himself that falsely stated that \$8,360 in federal income tax had been withheld from him, when no federal income tax had been withheld by REI. As a result of his own false return, Bell wrongfully attempted to obtain a refund of \$8,701.

### **Former City of Houston Employee Sentenced to Prison**

On Jan. 27, 2006, in Houston, Tex., Jerome Harris was sentenced to 57 months in prison followed by one year supervised release. The judge further ordered that, effective immediately, Harris be prohibited from preparing tax returns or assisting tax payers in audits. Harris was convicted of 21 counts of willfully preparing fraudulent income tax returns for his clients in September 2005. Harris, a full time employee for the City of Houston, also owned and operated Jay's Bookkeeping and Tax Service, located at his residence. It was found that Harris had prepared hundreds of false tax returns for the 1995 through 2000 tax years, resulting in claims for fraudulent tax refunds by his clients totaling almost \$1.3 million.

### **Michigan Man Sentenced For Preparing Tax Returns in Violation of Court Order**

On Feb. 16, 2006, in Grand Rapids, Mich., Robert L. Mosher, of Cedar Springs, Mich.,

was sentenced to 105 days in prison for contempt of court after violating injunctions that barred him from preparing tax returns for customers. Two injunctions were obtained after the Justice Department sued Mosher in 2003 for promoting a tax scheme involving sham trusts and preparing fraudulent returns understating customers' tax liabilities. Mosher continued to prepare income tax returns after these orders were entered.

### **Federal Court Permanently Shuts Down Louisiana Tax Preparer**

On April 18, 2006, Eddie Ferrand of Monroe, La., and two of his employees, Glenda Faye Elliott of Monroe, La., and William Nathaniel Kennedy of Rayville, La., were permanently barred from preparing tax returns. The court found that Ferrand, Elliott and Kennedy regularly understated customers' tax liabilities, by claiming false dependents, reporting fictitious business expenses and deductions and inflating other deductions.

### **Federal Judge Stops Tax Refund Fraud by Two Florida Tax Return Preparers**

On Aug. 8, 2006, a federal court permanently barred Jean-Marie Boucicaut and Marie Thelemarque of Orlando, Fla., and Boucicaut's company, Tax Review Corporation, from preparing federal tax returns for others. The court found that the defendants filed amended income tax returns for persons without their authorization and directed the IRS to send the requested refund checks to them.

### **Federal Court Bars Louisiana Tax Preparers from Claiming Inflated Deductions on Income Tax Returns**

On Oct. 5, 2006, in New Orleans, La., Rodney G. Bourg and Cynthia M. Bourg of Houma, La., were permanently barred from preparing federal income tax returns claiming inflated deductions or asserting unrealistic positions. The court found the Bourgs prepared federal income tax returns with improper per diem expense deductions for customers who worked as mariners, fishermen, merchant seamen and ferry workers.

### **Where Do You Report Suspected Tax Fraud Activity?**

If you suspect tax fraud or know of an abusive return preparer, report this activity using IRS Form 3949-A, Information Referral. You can download Form 3949-A from the IRS Web site at [IRS.gov](http://IRS.gov) or call 1-800-829-3676 to order by mail. Send the completed form, or a letter detailing the alleged fraudulent activity, to Internal Revenue Service, Fresno, CA 93888. Please include specific information about who you are reporting, the activity you are reporting and how you became aware of it, when the alleged violation took place, the amount of money involved and any other information that might be helpful to an investigation. Although you are not required to identify yourself, it is helpful to do so. Your identity can be kept confidential. You may also be entitled to a reward.